

UNITED STATES DISTRICT COURT

for the

District of South Carolina

United States of America

v.

Matthew Donald Kelly

Case No. 2:22-mj-28

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 17, 2022 in the county of _____ in the
 _____ District of South Carolina, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. 113(a)(1)

Assault with intent to commit murder, within special maritime and territorial jurisdiction of the United States

18 U.S.C. 113 (a)(3)

Assault with a dangerous weapon, with intent to do bodily harm, within special maritime and territorial jurisdiction of the United States

This criminal complaint is based on these facts:

see attached affidavit

☐ Continued on the attached sheet.

WHITAKER.CHRISTOPHER. Digitally signed by
 LYNN.1106533829 WHITAKER.CHRISTOPHER.LYNN.1106533829
 Date: 2022.06.18 12:27:44 -04'00'

Complainant's signature

Christopher L Whitaker, Special Agent

Printed name and title

Sworn to me via telephone or other reliable electronic means
 and signed by me pursuant to Fed. R. Crim. P. 4.1 and 4(d).

Date: 06/18/2022

A handwritten signature in black ink that reads "Mary Gordon Baker".

Judge's signature

City and state: Charleston, South Carolina

Mary Gordon Baker, United States Magistrate Judge

Printed name and title

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**AFFIDAVIT IN SUPPORT OF AN
APPLICATION FOR A CRIMINAL
COMPLAINT AND ARREST
WARRANT**

1. I, Christopher Whitaker, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

2. I am a Special Agent with the U.S. Coast Guard Investigative Service (CGIS), having entered on duty on May 10, 2009. As such, I am an investigative or law enforcement officer of the United States within the meaning of Rule 41(a) of the Federal Rules of Criminal Procedure. I am engaged in the enforcement of criminal laws and am within the category of officers authorized by the Attorney General to request and execute arrest and search warrants.

3. As an Agent of CGIS, I have investigated numerous violations of federal law including offenses of the United States Code and the Uniform Code of Military Justice (UCMJ). I have led and assisted in investigations pertaining to environmental crimes, fraud, narcotics, assault, and domestic violence. Through my participation in these investigations, I have collected evidence and debriefed numerous defendants, victims, and witnesses with personal knowledge regarding various crimes. In addition, as part of the Federal Bureau of Investigation (FBI) Joint Terrorism Task Force, I have investigated national security cases involving individuals seeking to travel overseas to commit violent jihad,¹ as well as individuals involved in using the internet and social media applications in support of terrorist activities and/or organizations. Additionally, I have completed FBI administered counterterrorism classroom and online training at the FBI Academy. During my eight year assignment as an FBI Task Force Special Agent, I participated in investigations of

¹ Jihad is defined as a struggle of fight against the enemies of Islam.

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individuals who are motivated by extremist ideology and groups who commit or conspire to commit criminal acts, including acts of terrorism. I have conducted and participated in physical and electronic surveillance, executed search warrants, debriefed informants and cooperating witnesses and reviewed recorded conversations. Additionally, I have received training, both formal and informal, in Weapons of Mass Destruction investigations. I graduated from the Criminal Investigator Training Program held at the Federal Law Enforcement Training Center (FLETC), in Glynco, GA. Presently, I am assigned to CGIS Resident Agent Office (RAO) Charleston as the Resident Agent-in-Charge.

4. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other U.S. Coast Guard (USCG) employees and other law enforcement officers. This affidavit is intended to show merely that there is sufficient probable cause to support the criminal complaint and does not purport to set forth all of the knowledge of or investigation into this matter. Unless specifically indicated otherwise, all conversations and statements described in this affidavit are related in substance and in part only, in reliance on draft verbatim transcripts that have not yet been finalized but I believe are accurate in their representation of the substance of the conversations and statements. All dates are on or about the specified date.

5. Based on my training and experience as a Special Agent with CGIS, as well as the facts set forth in this affidavit, there is probable cause to believe that on or about June 17, 2022, Matthew Donald Kelly, did assault Garrett Winesett and William Ball while aboard the Fishing Vessel "Grouper Snooper" Official Number 654327, while located in the Special Maritime and Territorial Jurisdiction of the United States, using a dangerous weapon and causing physical injury to

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Winesett and Ball, all in violation of Title 18, United States Code, Section 113, and has performed these acts in the District of South Carolina.

6. This affidavit is submitted for the limited purpose of supporting a criminal complaint and arrest warrant against Matthew Donald Kelly for violations of 18 U.S.C. § 113. The relevant portions of that statute provide, in part:

18 U.S.C. § 113(a)

Whoever, within the special maritime and territorial jurisdiction of the United States, is guilty of an assault shall be punished as follows:

(1) Assault with intent to commit murder, by a fine under this title, imprisonment for not more than 20 years, or both.

(3) Assault with a dangerous weapon, with intent to do bodily harm, by a fine under this title or imprisonment for not more than ten years, or both.

Additionally, the United States has jurisdiction under the following statute:

18 U.S.C. § 7

The term “special maritime and territorial jurisdiction of the United States”, as used in this title, includes:

(1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

Probable Cause Statement

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7. Matthew Donald Kelly, a resident of Andrews, SC, has been the subject of a USCG and CGIS investigation in the District of South Carolina.

8. On or about June 17, 2022, the USCG received a distress call via Very High Frequency (VHF) Marine Radio Channel 16 from an individual aboard the Fishing Vessel (F/V) Grouper Snooper. The radio caller indicated a crewmember, later identified as Matthew Kelly by a USCG boarding team, had stabbed another crewmember, while behaving erratically and violently.

9. The radio broadcast from the vessel produced a geographic line-of-bearing placing the vessel approximately 50.1 nautical miles from the U.S. coastline at or near the Charleston Harbor entrance, in the District of SC. This distance of the vessel from the U.S. shoreline placed the vessel within the U.S. Exclusive Economic Zone. Therefore, the vessel was located in waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State. In addition, the F/V Grouper Snooper belongs in whole or in part to a United States citizen, namely, Adam Wiseman of Murrells Inlet, SC.

10. The USCG Sector Charleston launched a vessel for search, rescue, and marine casualty investigation. The USCG vessel located the F/V Grouper Snooper and three persons on board. The persons identified were Matthew Donald Kelly, Garrett Winesett (the Captain of the vessel), and William Edward Ball.

11. After boarding the vessel, the USCG boarding team determined that Garrett Winesett had a superficial laceration to his anterior right deltoid that was bleeding, and William Ball had a puncture wound to his left posterior thoracic region that was bleeding. Additionally, Ball had a laceration to his right dorsal forefoot near his great toe that was bleeding.

12. The USCG boarding team conducted crewmember interviews consistent with the investigation of a marine casualty incident. William Ball made statements indicating that Matthew

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Kelly struck him, unprovoked, with a “fish bat.”² Two items were identified on board as “fish bats” by the victim(s) and collected by the USCG. Ball alleged Kelly struck him on the left side of his back with such force that it knocked him down and caused the puncture wound on his back, and also struck him on the foot causing a laceration.

13. The USCG Boarding Team detained Kelly based on the statements of the crew members and arranged for the North Charleston Police Department (NCPD) patrol boat, which also was present on scene, to transport Ball to Charleston for urgent medical care, where he was transferred by ambulance to the Medical University of South Carolina (MUSC). The boarding team transported Kelly to Charleston to meet with CGIS.

14. On June 17, 2022, during an interview of William Ball in the emergency room of MUSC, Ball stated Matthew Kelly brought two large bottles of liquor on the vessel and consumed it during the previous five days while they were underway. Kelly ran out of alcohol beverages on or about June 16, 2022, and began to act irrationally. He began talking to himself and asked Winesett to take him back into port for more alcohol. Winesett replied words to the effect that “no, it was too expensive.” This refusal seemed to upset Kelly and he started acting more irrationally. On or about the morning of June 17, 2022, Ball walked to the stern of the F/V Grouper Snooper to remove an electric motor from one of the reels and noticed Kelly walking around on the deck talking to himself. Ball walked back towards the cabin and Kelly picked up the fish bat with a nail in it and swung it, striking Ball in the left upper side of his back puncturing his skin. This caused Ball to fall into the cabin of the vessel and Winesett locked the cabin door, leaving Kelly outside on the deck of the vessel. Ball recalled Winesett yelling, “watch out,” just before Kelly struck him in the

² A “fishbat” is a slang term for a fishing gaff, which may be defined as a handheld pole with a sharp hook or sideways spike on the distal end, which is used to swing and stab into the body of a large fish.

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back. Kelly described the “fish bat” as a piece of wood with a nail in it that they use to strike fish as they break the surface of the water on the fishing line, then pull the nailed fish up on to the boat.

15. Additionally, on or about June 18, 2022, your affiant conducted an interview of Garrett Winesett, who alleged Kelly assaulted him unprovoked, raising two “fish bats” at him as he lunged at him. Winesett tried to fight Kelly off, and both tumbled to the ground. During this assault, Winesett sustained a laceration to his front right shoulder. Winesett further stated that earlier in the day, prior to the assault, Kelly had threatened to kill them.

16. On or about June 18, 2022, the USCG Boarding Team presented Kelly to your affiant when they arrived at the USCG Station Charleston Pier, where your affiant arrested Kelly, based on a determination of probable cause, for violating 18 U.S.C. § 113, Assault with Intent to Commit Murder, and Assault with a Dangerous Weapon, with Intent to do Bodily Harm.

17. On or about June 18, 2022, CGIS Agents transported Kelly to the Sheriff Al Cannon Detention Center after providing him Miranda warnings. He waived his rights verbally and in writing. During transport, your affiant asked Kelly how he used the sticks with the nails in them. Kelly admitted he used the sticks to “slap the shit out of the boys that was beating the hell out of me.” He continued, “I popped one in the shoulder and I popped the other one. I think I got him in the side of the arm.” Kelly had not been provided the fact that Agents knew the area of the victims’ bodies he struck or that he had used the fishbat. Kelly later recanted and changed this recollection of events involving the fishbat several times including claiming that he swung the fishbat and missed. Kelly claimed he acted in self-defense and mentioned that on one occasion, heard Ball or Winesett say “let’s get his ass.” Kelly claimed they were coming at him. Kelly claimed that prior to the incident, they tried to drown him by not helping him up on to the boat after he swam, then leaving him to hang on to a rope for seven hours in the water. He eventually identified “Bud Roe”

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as the captain and the other crewmember as “Ball.” Your affiant observed several bruises on one of Kelly’s lower anterior legs, but observed no other injuries. Kelly did not claim any injury to EMS personnel during evaluation at USCG Station Charleston.

18. According to statements made by hospital staff and William Ball to CGIS Agents, Ball was suffering from a pneumothorax,³ which was caused by the object that punctured his back. As a result of this injury, Ball had tubes placed in his chest by emergency room staff while awaiting admission to the hospital.

³ According to Johns Hopkins Medicine and the Mayo Clinic, a pneumothorax is air around or outside the lung that may result from chest trauma caused when air leaks into the space between the lung and chest wall; it is also known as a “collapsed lung” because it causes either a partial or complete collapse of the lung.

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CONCLUSION

19. Based on the foregoing, your Affiant believes that there is probable cause to show that on or about June 17, 2022, Matthew Donald Kelly, while within the Special Maritime and Territorial Jurisdiction of the United States, did assault William Edward Ball and Garrett Winesett, with the intent to commit murder, and furthermore, that Matthew Donald Kelly, while within the Special Maritime and Territorial Jurisdiction of the United States, did assault William Edward Ball and Garrett Winesett with a dangerous weapon, with intent to do bodily harm, in violation of Title 18, United States Code, Section 113(a)(1) and 113(a)(3), all which occurred in the District of South Carolina.

This affidavit was review by Assistant United States Attorney Alessandra Stewart.

Respectfully submitted,

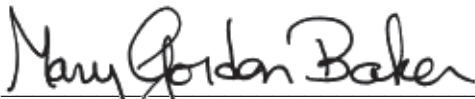
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Christopher L. Whitaker
Resident Agent-in-Charge
U.S. Coast Guard Investigative Service

SWORN TO ME VIA TELEPHONE OR
OTHER RELIABLE ELECTRONIC MEANS
AND SIGNED BY ME PURSUANT TO
FED. R. CRIM. P. 4.1 AND 4(d) OR 41(d)(3),
AS APPLICABLE.

This 18th day of June, 2022
Charleston, South Carolina



The Honorable Mary Gordon Baker
UNITED STATES MAGISTRATE JUDGE

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